REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. Rejection of Claim 23.

Claim 23 was rejected on the basis of "said server terminal" lacking sufficient antecedent basis.

The dependent claim has been amended to replace "said server terminal" with "said server", to which a proper antecedent is found within intervening Claim 20.

2. Rejection of Claims 1-43 under 35 U.S.C. § 103(a).

Claims 1-43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bowman et al. (U.S. Pat. Appl. Pub. 2002/0174431), hereafter "Bowman", and further in view of Lehtonen (U.S. Pat. Appl. Pub. 2001/0049262).

In response, the Applicant respectfully traverses the rejection of these claims, as the elements of both the Bowman reference and Lehtonen reference have been misinterpreted, and there exists no suggestion, teaching, or motivation which can be found in the references from which a person of ordinary skill in the art would find it obvious to modify these references to correspond with the apparatus of the Applicant.

Claim 1. Independent Claim 1 was rejected based on a "combination" of Bowman and Lehtonen. However, a number of shortcomings arise in this rejection as the elements of these references do not correspond to elements recited in Applicant claims.

Recited in Claim 1 is a first device (data marking device) configured for local, short range, communication and a second device configured for establishing a separate second wireless connection. In the rejection, the first device is considered to comprise DPS device 112, while the second wireless device is considered to comprise network interface 114, as these are seen in Fig. 1 of Bowman. The second wireless connection is interpreted as being the connection 116 as in Fig. 1 of Bowman.

Mobile device 110 or stationary DPS 112 (alternative devices), are configured to

communicate directly with the vendor managed DPS 122 as described in paragraph [0024] of Bowman: *"The user then transmits the bookmark from mobile device 110 to vendor managed DPS 122 by pressing another button on device 110."* Device 110/112 are mobile devices configured to directly communicate with remote facilities, and thus cannot be considered to be limited to "local, short range, communication" as recited in Claim 1.

From the specification and claims of the instant application it is clear that the network device 102 of the instant application, which is also shown in FIG. 3, does not comport to a simple interface as represented by the network interface 114 of Bowman. The instant application describes network device 102 comprising different user devices, such as "*WAP-enabled mobile telephone, i-mode telephones, internet access enabled personal digital assistants (PDAs), and the like*", and not as a part of the network infrastructure as it is used by Bowman.

Bowman discusses device 110 communicating directly with database 122 (paragraph 0024), and only mentions "*network interface 114*" in paragraph [0021] as being "*coupled to a communications network 118 (the Internet or PSTN) via a communications channel 116...*". There is no user interaction described for network interface 114 of Bowman wherein this must be considered in the traditional sense as an NIC, or similar. The definition of a "network interface" as found on www.wikipedia.com on 01/02/2007 is as follows:

> "In telecommunications and computer networking, a network interface is one of:
>
> (1) The point of interconnection between a user terminal and a private or public network.
>
> (2) The network card on a computer (in casual usage).
>
> (3) The point of interconnection between a public switched telephone network and a privately owned terminal. In the United States, the Code of Federal Regulations, Title 47, part 68, stipulates the interface parameters.
>
> (4) The point of interconnection between one network and another network.
>
> ---
>
> Federal Standard 1037C

MIL-STD-188

Part of the TCP/IP protocol architecture

Retrieved from "http://en.wikipedia.org/wiki/Network_interface""

It should be understood that as NICs are generally inherent within a given network infrastructure, they are not described within the instant application.

In positing the combination with Lehtonen, the rejection considers the Lehtonen device as a "*data marker integrated device*"; however there is no support for this conjecture. The device of Lehtonen is a hands-free headset and telephone, wherein music stored on the phone can be played when calls are not in progress. There is no description for this device having a data marking capability, in which a data mark is stored in response to bookmarking of a broadcast clip, the relied-upon paragraphs ([0027] and [0030]) are completely silent in terms of any data marking aspects.

From a review of paragraph [0027] of Bowman, Applicant only finds descriptions of mechanical aspects of the device and communication between the headset and electronics module. In a similar review of paragraph [0030] Applicant finds discussion of the electronic circuit blocks within electronic module 27, such as having an MCU. Consequently, the relied-upon sections of the reference do not support the contention of Lehtonen being a data marking device.

It should be noted that the Applicant's invention also solves a different problem than the cited references, and such a solution is clearly recited in the Applicant's claims. Refer to *Wright*, 6 USPQ 2d 1959 (1988). The claimed invention is directed to the problem of getting data marks from a local (first device) data marker, through a second device to a server which the specification defines as being adapted for retrieving information about the data marks which can be accessed by a user.

This is clearly not the object of the Bowman reference as it is directed to marking data marks on a device configured for long range communication and directly communicating these marks to a remote database. The Lehtonen reference is directed at hands-free telephonic operation and does not relate to a time stamp. Neither of

these references have an object which comports to that brought out in Applicant claims. Note the following provisions of the MPEP in this regard:

> MPEP 2143.01A: "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." *In re Kotzab,* 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also *In re Lee,* 277 F.3d 1338, 1342-44, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002) (discussing the importance of relying on objective evidence and making specific factual findings with respect to the motivation to combine references); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)." Emphasis added.

It is readily recognized from the above that a number of aspects of these references do not comport with the aspects recited in Claim 1. In addition, since Bowman does not provide an element which comports with the "second device" recited in Claim 1 of the Applicant, then a combination with Lehtonen is not proper.

Accordingly, the combination is improper and the references do not provide suggestion, teaching, or motivation from which a person of ordinary skill in the art would find it obvious to modify these references to correspond with the apparatus of the Applicant.

In order to reduce further misinterpretations of the recitation of the second device, Applicant has amended independent Claim 1, to include the limitation "*said second device configured for interfacing with a user in response to said communications with said first device and/or said server*", which even more clearly distinguishes the second device from a component of the network infrastructure and in particular a network interface.

Therefore, Claim 1 is non-obvious in relation to the improperly combined references in which no teaching, suggestion, incentive or motivation to combine these references has been shown, and whose combination does not result in the claimed invention. Applicant respectfully requests that the rejection of Claim 1, and the claims

that depend therefrom, be withdrawn.

Claims 2-19. Dependent Claims 2-19 should be considered *a fortiori* allowable in view of the non-obviousness discussed for independent Claim 1. However, a number of these claims recite aspects which provide additional grounds for patentability that were not properly considered. The shortcomings relating to a portion of these dependent claim rejections are discussed below.

Claim 4. Dependent Claim 4 recites said second device of Claim 1 being one of a number of communication devices, specifically "*wireless application protocol (WAP) enabled mobile telephone, an I-mode mobile telephone, and an internet access enabled personal digital assistant*". The rejection equates these mobile telephonic devices with the telephone devices described in the hands-free system of the Lehtonen reference. However, this approach suffers from a number of shortcomings. (1) Bowman does not describe an element which properly comports with the second device, wherein this use of Lehtonen is not proper. (2) Replacement of a NIC with the wireless headset system of Lehtonen is not proper as these elements are not equivalent, especially in view of the fact that Lehtonen does not describe a data marking capability, as that term is generally known, or as described in the instant application. (3) Bowman utilizes a telephonic device 110 for performing the data marking, wherein this substitution of a phone for the NIC would result in performing data marking on a first telephonic device which communicates with a second telephonic device, which then connects to the server. The second telephonic device is redundant and does not aid in the purpose to which Bowman is directed.

Accordingly, although dependent Claim 4 should already be considered *a fortiori* allowable in view of the discussion presented for Claim 1 above, this claim provides additional grounds for patentability over the cited references.

Claim 5. Dependent Claim 5 recites that "*wireless communication between said second device and said data marker integrated device is established with a Bluetooth communication protocol*". In the rejection the use of Bluetooth within the second device

is equated with the use of this protocol within hands-free phone device of the Lehtonen reference with the second device recited in Claim 1. However, as Bowman does not describe an element which properly comports with the second device of the claim, this use of Lehtonen is not proper. Secondly, replacement of a NIC with the wireless headset system of Lehtonen is not proper as these elements are not equivalent, especially in view of the fact that Lehtonen does not describe a data marking capability as that term is known in the instant application.

Accordingly, although dependent Claim 5 should already be considered *a fortiori* allowable in view of the discussion presented for Claim 1 above, this claim provides additional grounds for patentability over the cited references.

Claim 6. Dependent Claim 6 recites that "*said data marker integrated device includes an interface unit configured to establish wireless communication under a Bluetooth communication protocol*". The rejection attempts to substitute the first device recited in the claim as "a data marker integrated device" (said to be configured to store a data mark in response to bookmarking of a broadcast clip), with the hands-free phone device of the Lehtonen reference. However, Lehtonen does not provide data marking functionality as that is generally known and/or as described in Applicant's specification, wherein that combination is not proper.

Accordingly, although dependent Claim 6 should already be considered *a fortiori* allowable in view of the discussion presented for Claim 1 above, this claim provides additional grounds for patentability over the cited references.

Claims 7-8. Dependent Claims 7-8 depend from Claim 6, and further recite "*said second device includes an interface unit configured to establish wireless communication under a Bluetooth communication protocol*" in Claim 7; and that "*said Bluetooth communication protocol operates at approximately 2.4 GHz*", as per Claim 8. Shortcomings of the rejection of Claims 7-8 describes the use of Bluetooth on the data marking device and on the data marker device, which are the same shortcomings as recited in a combination of dependent Claims 5-6 separately discussed above.

Accordingly, although dependent Claims 7-8 should already be considered *a fortiori* allowable in view of the discussion presented for Claim 1 above, they provide additional grounds for patentability over the cited references.

Claim 12. Dependent Claim 12 describes the transmission acknowledgement being displayed on the second device. Support for the rejection is based on the use of acknowledgements performed at a low level within an IP stack. This aspect of displaying acknowledgement in Claim 12 is clearly distinct from that of Bowman, which: (1) does not disclose a device that comports to the second device of Applicant claims; and (2) provides no means for displaying said acknowledgement on this "second device".

Accordingly, although dependent Claim 12 should already be considered *a fortiori* allowable in view of the discussion presented for Claim 1 above, this claim provides additional grounds for patentability over the cited references.

Claim 20. Independent Claim 20 is drawn to a method which describes data marking though the first and second devices.

The rejection of Claim 20 is given in similar manner to that of Claim 1, and suffers from similar shortcomings.

In the rejection, the first device is considered to comprise DPS device 112, while the second wireless device is considered to comprise network interface 114, as seen in Fig. 1 of Bowman. The second wireless connection is interpreted as being the connection 116 (Fig. 1 of Bowman).

As noted in discussing the rejection of Claim 1, mobile device 110 or stationary DPS 112 (alternative devices), are configured to communicate directly with the vendor managed DPS 122 as described in paragraph [0024] of Bowman: *"The user then transmits the bookmark from mobile device 110 to vendor managed DPS 122 by pressing another button on device 110."*

From the specification and claims of the instant application it is clear that network device 102 of the instant application (also shown in FIG. 3), does not comport

to a simple interface as represented by network interface 114 of Bowman. Network device (second device) of the Applicant is clearly called out as a device in the specification and claims, wherein it is not an inherent aspect of the network infrastructure. The instant application describes network device 102 comprising different user devices, such as "*WAP-enabled mobile telephone, i-mode telephones, internet access enabled personal digital assistants (PDAs), and the like*", and not as a part of the network infrastructure as a somewhat similar term is used by Bowman.

Bowman discusses device 110 communicating directly with database 122 (paragraph 0024), and only mentions "*network interface 114*" in paragraph [0021] as being "*coupled to a communications network 118 (the Internet or PSTN) via a communications channel 116...*". There is no user interaction described for network interface 114 of Bowman wherein this must be considered in the traditional sense of the NIC, or similar, as was pointed out in the definition of a network interface recited previously.

In positing the combination with Lehtonen, the Lehtonen device is considered to describe *"storing a data mark within a data marking device, as a first device*"; however there is no support for this conjecture. The device of Lehtonen is a hands-free headset and telephone, wherein music stored on the phone can be played when calls are not in progress. There is no description for this device having a data marking capability, such as for storing a data mark. The relied-upon paragraphs ([0027] and [0030]) provide no support of any data marking aspects.

It is readily recognized from the above that the aspects from these references do not comport with the method aspects recited in Claim 20. In addition, since Bowman does not provide an element which comports with the "*second device*" recited in Claim 20 of the Applicant, then a combination with Lehtonen is not proper.

Accordingly, the combination is improper and the references do not provide suggestion, teaching, or motivation from which a person of ordinary skill in the art would find it obvious to modify these references to correspond with the apparatus of the

Applicant.

Therefore, Claim 20 is non-obvious in relation to the improperly combined references in which no teaching, suggestion, incentive or motivation to combine these references has been shown, and whose combination does not result in the claimed invention. Applicant respectfully requests that the rejection of Claim 20, and the claims that depend therefrom, be withdrawn.

Claims 21-27 and 30. Dependent Claims 21-27 and 30 should be considered *a fortiori* allowable in view of the non-obviousness discussed for independent Claim 20. Although, Applicant notes that as with claims 2-19, a number of these claims recite aspects which provide additional grounds for patentability that were not properly considered.

Claim 31. Independent Claim 31 is drawn to a method which describes data marking though the first and second devices. The rejection of Claim 31 is given in similar manner to that of Claims 1 and 20, and suffers from similar shortcomings.

In the rejection of Claim 31, the first device is considered to comprise device 112, while the second wireless device is considered to comprise network interface 114, as seen in Fig. 1 of Bowman. The second wireless connection is interpreted in the rejection as being connection 116, as in Fig. 1 of Bowman.

As noted with respect to Claim 1 and 20, mobile device 110 or stationary DPS 112 (alternative devices used for marking time and station information related to a music broadcast) of Bowman is configured to communicate directly with the vendor managed DPS 122 as described in paragraph [0024]: *"The user then transmits the bookmark from mobile device 110 to vendor managed DPS 122 by pressing another button on device 110."*

The specification and claims of the instant application make it clear that network device 102 of the instant application (also shown in FIG. 3), does not comport to a simple interface as represented by network interface 114 of Bowman. For example, the specification of the instant application describes network device 102 as comprising

different user devices, such as "*WAP-enabled mobile telephone, i-mode telephones, internet access enabled personal digital assistants (PDAs), and the like*", and not as a part of the network infrastructure as it is used by Bowman.

Claim 31 has also been amended to recite that the second device comprises "*a mobile device configured for establishing a Bluetooth protocol connection and a separate longer range communication connection*", which assures distinguishing second device from a portion of the fixed network infrastructure.

Bowman discusses device 110 communicating directly with database 122 (paragraph 0024), and only mentions "*network interface 114*" in paragraph [0021] as being "*coupled to a communications network 118 (the Internet or PSTN) via a communications channel 116...*". There is no user interaction described for network interface 114 of Bowman wherein this must be considered in the traditional sense of the NIC, or similar, as was pointed out in the definition of a network interface recited previously.

In positing the combination with Lehtonen, the Lehtonen device is considered to describe *"storing a data mark within a data marking device, as a first device*"; however there is no support for this conjecture. The device of Lehtonen is a hands-free headset and telephone, wherein music stored on the phone can be played when calls are not in progress. There is no description for this device having a data marking capability, such as for storing a data mark. The relied-upon paragraphs ([0027] and [0030]) provide no support of any data marking aspects. The use of the Bluetooth protocol by Lehtonen does not comport to the "transmitting" and "receiving" steps between the first and second devices as recited in Claim 31 through which the data marks are communicated as Lehtonen is not directed at registering, storing, transmitting or receiving these data marks.

It is readily recognized from the above that the aspects from these references do not comport with the method aspects recited in Claim 31. In addition, since Bowman does not provide an element which comports with the "*second device*" recited in Claim

31 of the Applicant, then a combination with Lehtonen is not proper.

Accordingly, the combination is improper and the references do not provide suggestion, teaching, or motivation from which a person of ordinary skill in the art would find it obvious to modify these references to correspond with the apparatus of the Applicant.

Therefore, Claim 31 is non-obvious in relation to the improperly combined references in which no teaching, suggestion, incentive or motivation to combine these references has been shown, and whose combination does not result in the claimed invention. Applicant respectfully requests that the rejection of Claim 31, and the claims that depend therefrom, be withdrawn.

Claims 32, 34-37, and 41. Dependent Claims 32, 34-37, and 41 should be considered *a fortiori* allowable in view of the non-obviousness discussed for independent Claim 31. Although, Applicant notes that as with claims 2-19, a number of these claims recite aspects which provide additional grounds for patentability that were not properly considered.

Claims 42-43. Independent Claims 42-43 are drawn to a data marker integrated device communication system utilizing data marking which is communicated from data marking device, a first device, and through a second device to a server. The rejection of Claims 42-43 are given in similar manner to that of Claims 1, 20 and 31, and suffers from similar shortcomings.

In the rejection of Claims 42-43, the first device is considered to comprise device 112, while the second wireless device is considered to comprise network interface 114, as seen in Fig. 1 of Bowman.

As noted with respect to the discussion of the rejection of Claims 1, 20 and 31; mobile device 110 or stationary DPS 112 of Bowman is configured to communicate directly with the vendor managed DPS 122 as described in paragraph [0024]: *"The user then transmits the bookmark from mobile device 110 to vendor managed DPS 122 by pressing another button on device 110."*

In reading the specification of the instant application it can be readily understood that network device 102 of the instant application (also shown in FIG. 3), does not comport to a simple communication interface as represented by network interface 114 of Bowman. For example, the specification of the instant application describes network device 102 as comprising different user devices, such as "*WAP-enabled mobile telephone, i-mode telephones, internet access enabled personal digital assistants (PDAs), and the like*", and not as a part of the network infrastructure as it is used by Bowman.

The specification of Bowman discusses device 110 communicating directly with database 122 (paragraph 0024), and only mentions "*network interface 114*" in paragraph [0021] as being "*coupled to a communications network 118 (the Internet or PSTN) via a communications channel 116...*". There is no user interaction described for network interface 114 of Bowman. Accordingly, the "network interface" of Bowman must be considered in the traditional sense of the NIC, or similar, as was pointed out in the definition of a network interface recited previously.

In positing the combination with Lehtonen, the Lehtonen device is considered to describe *"means for storing a data mark within a data marking device, as a first device"*; however there is no support for this conjecture. The device of Lehtonen is a hands-free headset and telephone, wherein music (e.g., MP3) stored on the phone can be played when calls are not in progress. There is no description for this device having a data marking capability, such as for storing a data mark. The relied-upon paragraphs ([0027] and [0030]) provide no support of any data marking aspects. With regard to Claim 43, the use of a Bluetooth protocol by Lehtonen does not comport to the means for "transmitting" and "receiving" between the first and second devices as recited in the claim through which the data marks are communicated, because Lehtonen is not directed at registering, storing, transmitting or receiving these data marks.

It is readily recognized from the above that the aspects from these references do not comport with the means aspects recited in Claims 42-43. In addition, since

Bowman does not provide an element which comports with the "*second device*" recited in Claim 42-43 of the Applicant, then a combination with Lehtonen is not proper.

Accordingly, the combination is improper and the references do not provide suggestion, teaching, or motivation from which a person of ordinary skill in the art would find it obvious to modify these references to correspond with the system of the Applicant.

Therefore, Claims 42-43 are non-obvious in relation to the cited references in which no teaching, suggestion, incentive or motivation to combine these references has been shown, and whose combination does not result in the claimed invention. Applicant respectfully requests that the rejection of Claims 42-43, and the claims that depend therefrom, be withdrawn.

3. Traversal of Rejection of Claims 42-43; In re Donaldson.

The Applicant respectfully traverses the grounds for rejection, and cites *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994)(en banc) as the basis for the traversal. Claims 42-43 are written in means plus function form pursuant to 35 U.S.C. §112, sixth paragraph, and therefore, must be interpreted during examination under *In re Donaldson*.

In rejecting Claims 42-43, the Examiner made no specific fact findings as to the scope of equivalents for the means plus function elements in the claims. Instead, the Examiner appears to have followed the provisions of MPEP § 2183 ("Making a Prima Facie Case of Equivalence"), which states:

> If the examiner finds that a prior art element performs the function specified in the claim, and is not excluded by any explicit definition provided in the specification for an equivalent, the examiner should infer from that finding that the prior art element is an equivalent, and should then conclude that the claimed limitation is anticipated by the prior art element. The burden then shifts to applicant to show that the element shown in the prior art is not an equivalent of the structure ... disclosed in the application. *In re Mulder*, 716 F.2d 1542, 219

> U.S.P.Q. 189 (Fed. Cir. 1983). No further analysis of equivalents is required of the examiner until applicant disagrees with the examiner's conclusion, and provides reasons why the prior art element should not be considered an equivalent.

While the Examiner appears to have followed the provisions of MPEP §2183, such provisions are contrary to Federal Circuit law. The Federal Circuit has held that an examiner "construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure ... described therein, and equivalents thereof," *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994)(en banc), and in so ruling expressly denied that "the PTO is exempt from this mandate." Id. The Federal Circuit added that it was specifically overruling any precedent that suggested or held to the contrary. Id. at 1193-94. In response to the PTO's argument that the court's ruling conflicted with the principle that a claim should be given its broadest reasonable interpretation during prosecution, the Federal Circuit held that the Donaldson decision was setting "a limit on how broadly the PTO may construe means-plus-function language under the rubric of 'reasonable interpretation.'" Id. at 1194. In other words, an examiner's claim interpretation is not "reasonable" if it is not based on the specification's description of the implementation of the means element of the claim. The court then said, "Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such [means-plus-function] language when rendering a patentability determination. " Id. at 1195.

Here, as in *Donaldson*, the Examiner is required by statute to look to the Applicant's specification and construe the "means" language as referring to corresponding means disclosed in the specification and equivalents thereof." See id. at 1195. However, the Examiner did not construe the means language of these claims, however. Nor did the Examiner find, on the basis of specific facts of record here, that the means disclosed in the Applicant's specification were equivalent to that of the cited

references. Instead, as prescribed by MPEP §§ 2183-84, the Examiner simply presumed equivalence. The presumption methodology used here, which the MPEP prescribes, clearly conflicts with the requirements of the Federal Circuit's Donaldson decision. The approach taken by the Examiner in this case also conflicts with *In re Bond*, 931 F.2d 831 (Fed. Cir. 1990).

The very point of these cases is that, in this context, limitations from the specification control the interpretation of the claim. Under §112, paragraph 6, a means-plus-function element of a claim must be construed to mean that which is disclosed in the specification and its equivalents. In *Donaldson*, the Federal Circuit said that "our holding does not conflict with the general claim construction principle that limitations found only in the specification of a patent or patent application should not be imported or read into a claim." In other words, the court was saying that a §112, paragraph 6 "means" element does not need to be "imported or read into" a means-plus-function claim because the specification's limitations and their equivalents are already in the claim by virtue of §112, paragraph 6's command. Thus, the Federal Circuit said (16 F.3d at 1195): "What we are dealing with in this case is the construction of a limitation already in the claim in the form of a means-plus-function clause and a statutory mandate on how that clause must be construed."

Based on the foregoing, the Applicant respectfully submits that the rejection of Claims 42-43, as well as the claims that depend therefrom lacks proper foundation and that the rejection should be withdrawn. Those claims, each of which include means plus function limitations, should have been interpreted in view of the specification as required by *In re Donaldson*. If those claims had been so interpreted, they would have been allowable since the cited references do not, singly or in combination, teach, suggest or provide motivation or incentive for the subject matter recited in those claims.

4. Amendment of Claims 1, 20, 23 and 31.

Claim 1. The Applicant has amended independent Claim 1 to recite "*said second device configured for interfacing with a user in response to said*

communications with said first device and/or said server;". Support for this is seen in FIG. 3 wherein input unit 402, display unit 403 provide for data I/O as described in page 7, lines 9-16, and elsewhere.

Claim 20. Independent Claim 20 has been amended to remove a typographical error with the inclusion of an extra "and".

Claim 23. Dependent Claim 23 has been amended to correct an antecedent basis issue by changing "server terminal" to "server", so as to match the language of the preceding claim.

Claim 31. Independent Claim 31 has been amended to remove a typographical error with the inclusion of an extra "and".

In addition, the limitation "*said second device comprising a mobile device configured for establishing a Bluetooth protocol connection and a separate longer range communication connection*" has incorporated into Claim 31. Support for this aspect is shown in FIG. 1 and FIG. 3, and described throughout the specification, including page 4, lines 22-28.

5. Extension of time under 37 CFR 1.136(a).

A petition is enclosed for a one (1) month extension as described in 37 CFR 1.136(a); an appropriate fee is enclosed.

6. Amendments Made Without Prejudice or Estoppel.

Notwithstanding the amendments made and accompanying traversing remarks provided above, the amendments have been made without any prejudice, waiver, or estoppel, and without forfeiture or dedication to the public, with respect to the original subject matter of the claims as originally filed or in their form immediately preceding these amendments. Applicant reserves the right to pursue the original scope of these claims in the future, such as through continuation practice, for example.

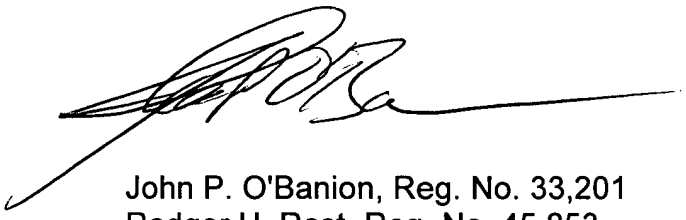
7. Conclusion.

Based on the foregoing, Applicant respectfully requests that the various grounds for rejection in the Office Action be reconsidered and withdrawn with respect to the discussion presented herein, and that a Notice of Allowance be issued for the present application to pass to issuance.

In the event any further matters remain at issue with respect to the present application, Applicants respectfully request that the Examiner please contact the undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this application.

Date: 1/12/07

Respectfully submitted,



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